REMARKS

This application has been amended in a manner that is believed to place it in condition for allowance at the time of the next Official Action.

Claims 25-44 are pending in the present application. Support for new claims 25-44 may be found in original claims 1-24 and generally throughout the specification. Claims 1-24 have been cancelled.

In the outstanding Official Action, the lack of unity determination was maintained. In maintaining the lack of unity determination, the Examiner invited applicant to identify where the MPEP states that the citation of a reference is required to support a lack of unity determination. MPEP §1893.03(d) states that unity of invention practice is applicable in international applications and in national stage applications submitted under 35 USC 371. As noted in the Application Data Sheet, this application is a 371 of PCT/FI00/00487, filed on May 21, 2000. Thus, unity of invention practice applies to the present application.

MPEP §1893.03(d) further states that when making of lack of unity of invention determination, the examiner must (1) list the separate groups of claims and (2) explain why each group lacks unity with each other group specifically describing the unique special technical feature in each group. For a detailed discussion of unity of invention requirements, MPEP §1893.03(d)

cites to MPEP §1850. In particular, MPEP §1850 cites to PCT Rule 13. PCT Rule 13.2 states:

> "Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

Thus, the definition of "special technical feature" in PCT Rule 13.2 is art-based. Accordingly, a proper lack of unity determination requires the citation of a reference demonstrating that the "special technical feature" of a group of inventions does not make a contribution over the prior art. While applicant notes that the Official Action cites to FREY et al. as anticipating claims 1-10, applicant believes that FREY et al. fail to anticipate the claimed invention for the reasons noted below. Accordingly, applicant believes that FREY et al. also fail to show the "special technical feature" of the present invention. As a result, applicant believes that the law of unity determination is improper as a matter of law.

In the outstanding Official Action, claims 1-10 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-15 of co-pending Application No. 10/450,781. This rejection is respectfully traversed.

The claimed invention is directed to a breathable polymer casing for dry sausages, comprising a thermoplastic polymer comprising polyamide blocks and polyether blocks and having a moisture vapor transmission rate of equal or more than 500 $g/m^2/24$ hours. This sausage casing is not comprised of a blend of a polyamide with thermoplastic polymers. Thus, applicant believes that the claimed invention is distinct over claims 1-15 in co-pending Application No. 10/450,781.

Moreover, the Examiner's attention is respectfully directed to MPEP 804(B), which states:

> "The "provisional" double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that "provisional" double patenting rejection is the only rejection remaining in one of the applications. If the "provisional" double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the "provisional" double patenting rejection and the other application(s) until the double patenting rejection at the time one of the applications issues as a patent."

As noted above, applicant respectfully submits that the double patenting rejection is improper. Nevertheless, even if the Patent Office maintains the position that the double patenting rejection is proper, applicant notes that this should not delay the allowance of the present application.

The Official Action also objected to the specification for not containing the appropriate section headings. However,

the Examiner's attention is respectfully directed to the amendment of June 23, 2004, wherein the specification was amended to incorporate preferred section headings.

Claims 2, 4-7, and 9-10 were rejected under 35 USC 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant believes the present amendment obviates this rejection.

As noted above, claims 2, 4-7, and 9-10 have been cancelled. Applicant respectfully submits that new claims 25-44 have been drafted in a manner so as to obviates the rejection of claims 2, 4-7, and 9-10 under 35 USC 112, second paragraph.

Claims 1-10 were rejected under 35 USC 102(e) as allegedly being unpatentable over FREY et al. This rejection is respectfully traversed.

At this time, the Examiner's attention is respectfully directed to new claim 25 which is directed to a breathable polymer casing, wherein the casing comprises thermoplastic polymer comprising polyamide blocks and polyether blocks and the casing has a moisture vapor transmission rate (MVTR) of equal or more than 500 $g/m^2/24$ hours measured by the ASTM E96 BW method, and wherein the casing is in a tubular form and permeable to smoke. Upon reviewing FREY et al., applicant believes that FREY et al. fail to disclose or suggest a casing in a tubular form that is permeable to smoke. Rather, FREY et al. is directed to

the manufacturing of packaging material and is not concerned with producing a casing for dry sausages.

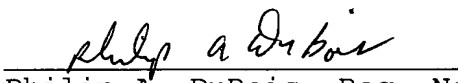
As a result, applicant believes that FREY et al. fail to anticipate or render obvious the claimed invention.

In view of the present amendment and foregoing remarks, therefore, applicant believes that the present application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R.§1.17.

Respectfully submitted,

YOUNG & THOMPSON



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